

S/N 10/522,045

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Okamoto et al.	Examiner:	Shaw, Amanda M.
Serial No.:	10/522045	Group Art Unit:	1634
Filed:	January 19, 2005	Docket No.:	10873.1576USWO
Title:	MICROORGANISM OR CELL COLLECTION METHOD, AND MICROORGANISM OR CELL COLLECTING IMPLEMENT USED FOR THE METHOD		

**CERTIFICATE OF TRANSMISSION**

I hereby certify that the papers listed below are being transmitted by EFS Web to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on **November 16, 2010.**

By: 

Name: Jane Schommer

Mail Stop Board of Patent Appeals and Interferences  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR 1.136(b)**

Dear Sir:

Applicants respectfully request the Board of Patent Appeals and Interferences (hereinafter "the Board") that a two-month extension of time be granted to respond to a decision rendered by the Board on September 23, 2010. In accordance with 37 CFR 1.136(b), the following is provided:

- A. A petition fee of \$200 under 37 CFR 1.17(g);
- B. A showing of good and sufficient reasons why an extension of time should be granted are provided as follows:

Applicants for US Application Number 10/522,045 filed an Appeal Brief on May 19, 2009. On September 2, 2009, Examiner Shaw mailed an Examiner's Reply withdrawing the formality rejection but maintaining the substantive rejections. No Reply Brief was filed.

About one year after the mailing of the Examiner's Reply, on September 23, 2010, the Board rendered a decision with a new ground of rejection setting a time period for reply of two months from the date of the decision. However, a paper copy of the decision was never received in the mail by the Docketing and Annuities Manager for Hamre, Schumann, Mueller & Larson, P.C., the law firm prosecuting US Application Number 10/522,045. A declaration by the Docketing and Annuities Manager indicating that the paper copy of the decision was never received is enclosed.

On November 15, 2010, one of Applicants' representatives became aware accidentally of the Board's decision in a review of the USPTO on-line records.

As is clear from the above, the paper copy of the decision from the Board was never received, and the Applicants became aware of the decision only by accident on November 15, 2010, which is about one week prior to the due date of the response. Therefore, Applicants respectfully submit that an extension of time to reply to the Board's decision should be granted.

B. A showing of good and sufficient reasons why a two month extension of time is reasonable are provided as follows:

As indicated above, Applicants' representative only became aware of the Board's decision on November 15, 2010, with just one week left in the time period of two months for reply. Thus, Applicants submit that a two month extension of time is reasonable under the circumstances.

In view of the above, Applicants respectfully request a two-month extension of time to reply to the Board's decision.

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Applicants respectfully request prompt confirmation that the two-month extension of time is being granted. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.



Dated: Nov. 16, 2010

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &  
LARSON, P.C.  
P.O. Box 2902  
Minneapolis, MN 55402-0902  
(612) 455-3800

By:

A handwritten signature in black ink, appearing to be "D. Mueller", written over a horizontal line.

Douglas P. Mueller  
Reg. No. 30,300

DPM/ym

S/N 10/522045

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By: 

Name: Jane Schommer

**DECLARATION IN SUPPORT OF PETITION UNDER 37 CFR 1.136(b)**

Mail Stop Board of Patent Appeals and Interferences  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

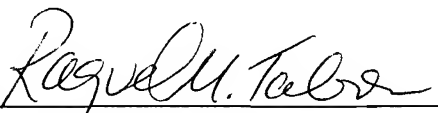
Dear Sir:

I, Raquel M. Tabor, declare and state:

1. I am the Docketing and Annuities Manager for Hamre, Schumann, Mueller & Larson, P.C., the law firm prosecuting the above-referenced patent application. I have been Docketing and Annuities Manager since April 8, 2005.
2. I am responsible for overseeing all incoming Patent and Trademark Office communications and overseeing those responsible for seeing that these communications are docketed properly and entered into our computerized docketing system.
3. Incoming mail received by the firm is sorted into correspondence that may require docketing and correspondence that do not require docketing. The correspondence that may require docketing is further distinguished between correspondence from the U.S. Patent and Trademark Office and other correspondence. After the incoming mail has been date stamped to show date of receipt, a member of the firm's docketing department receives the mail that may require docketing and brings it to the docketing department.

4. Each piece of mail received by the docketing department is entered on the daily mail log, listed by attorney docket number and title. The appropriate personnel then “dockets” (reviews and enters the due dates for response) each item.
5. If a Decision from the Board of Patent Appeals and Interferences had been received, the communication would have been docketed by entering into the computerized docket system the date for response, whether that be Re-Opening Prosecution or Requesting Rehearing. The computerized docket system would show the due date and a one-month prior reminder. The first page of the decision would then be marked by the person docketing the response due date to indicate that it had been reviewed and entered into the firm’s central docketing system; the item would then be forwarded to the attorney responsible for the patent application for further action, e.g., reporting to the client, etc. In addition, the item would be scanned and saved in the firm’s document management system and docketed in the secondary docket system.
6. I have reviewed the records in the firm's daily mail log, the central docket system and the firm’s document management system and find no entry for the Decision for this application, nor any other evidence elsewhere that would suggest that the Decision actually was received by the firm.
7. In view of the above, I believe that the Decision for this application was never received by the firm.
8. I declare that all statements made herein of my own knowledge are true and that all statements made on information belief are believed to be true; and further that these statements were made with knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18, of the United States Code and that such willful, false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Dated: November 16, 2010

By:   
Raquel M. Tabor

DPM/YM/rmt